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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

Kimberly Carleste Newman, Lisa Cabrera,  
Catherine Jones, Denotra Nicole Lewis,  
Andrew Hepkins, Harvey Stubbs, Khalif  
Muhammad, Keu Reyes and Osiris Ley,

Plaintiffs,

vs.

Google LLC, YouTube LLC, Alphabet, Inc.  
and Does 1 through 100, inclusive,

Defendants.

Case No. 5:20-cv-04011-LHK

**STIPULATION OF THE PARTIES RE  
CASE MANAGEMENT CONFERENCE,  
FILING THE THIRD AMENDED  
COMPLAINT, AND BRIEFING  
DEFENDANTS' MOTION TO DISMISS**

Judge: Hon. Lucy H. Koh  
Date: July 28, 2021  
Time: 2:00 p.m.  
Crtrm.: 8

1 Plaintiffs Kimberly Carleste Newman, Lisa Cabrera, Catherine Jones, Denotra Nicole  
 2 Lewis, Andrew Hepkins, Harvey Stubbs, Khalif Muhammad, Keu Reyes, and Osiris Ley  
 3 (“Plaintiffs”) and Defendants Google LLC and YouTube, LLC (“Defendants”) (collectively, “the  
 4 Parties”), by and through their respective counsel of record, hereby stipulate as follows in the  
 5 above entitled lawsuit (“this case”):

6 WHEREAS, Plaintiffs filed this action on June 16, 2020 alleging racial discrimination in  
 7 contract (*see* Dkt. 1);

8 WHEREAS, the Court issued an Order allowing Plaintiffs to file a Second Amended  
 9 Complaint on August 26, 2020 (*see* Dkt. 25);

10 WHEREAS, Plaintiffs filed a Revised Second Amended Complaint on September 21,  
 11 2020 (*see* Dkt. 27);

12 WHEREAS, Defendants filed a Motion to Dismiss on November 2, 2020 (*see* Dkt. 29);

13 WHEREAS, the Court granted Defendants’ Motion to Dismiss with leave to amend on  
 14 June 25, 2021 (*see* Dkt. 68);

15 WHEREAS, Plaintiffs intend to file a Third Amended Complaint (the “TAC”);

16 WHEREAS, Defendants anticipate responding to the TAC by moving for its dismissal;

17 WHEREAS, there is now pending before the California Court of Appeals for the Sixth  
 18 Appellate District the appeal of Prager University in *Prager University v. Google, et al.*, Santa  
 19 Clara Superior Court Case No. 19CV340667 (“*Prager University*”), the record for which was  
 20 filed today and requires briefs to be filed;

21 WHEREAS, on August 13, 2019, LGBTQ content creators filed a lawsuit against  
 22 Defendants entitled *Divino Group LLC, et al. v. Google LLC, et al.*, in the United States District  
 23 Court for the Northern District of California San Jose Division, Case No. 5:19-cv-04749-VKD  
 24 (“*Divino*”), which is now pending in this Court before the Honorable Virginia DeMarchi, and  
 25 Plaintiffs sent a Rule 5.1 Notice to the Government that they intended to challenge the proper  
 26 construction, scope, application, and constitutionality of 47 U.S.C. §230(c) immunity granted to  
 27 internet service providers given Plaintiffs’ allegations of identity based discrimination, including  
 28 discrimination based on sexual orientation and gender;

1 WHEREAS, on January 6, 2021, the Court in *Divino* granted Defendants' Motion to  
2 Dismiss;

3 WHEREAS, on January 20, 2021, Plaintiffs filed the Third Amended Class Action  
4 Complaint in *Divino*;

5 WHEREAS, on February 16, 2021, the Court in *Divino* issued an Order staying the  
6 action pursuant to Stipulation, pending the Court's ruling in this matter on Defendants' Motion  
7 to Dismiss the Second Amended Complaint;

8 WHEREAS, the *Divino* Plaintiffs and Defendants agree that the stay in *Divino* should be  
9 lifted and the matter should proceed;

10 WHEREAS, the Defendants in *Divino* now intend to respond to the TAC and move for  
11 its dismissal;

12 WHEREAS, the Parties have met and conferred at length, desire to continue the Case  
13 Management Conference currently scheduled for July 28, 2021, and desire to coordinate the  
14 briefing schedules for this matter, *Divino*, and *Prager University*; and

15 WHEREAS, subject to approval of this Court, after meeting and conferring, pursuant to  
16 this stipulation, the Parties have agreed to request that the Court enter an order setting the  
17 following schedule: (a) the Case Management Conference currently set for July 28, 2021 at 2:00  
18 p.m. before this Court shall be continued to a date after the hearing for Defendants' Motion to  
19 Dismiss the TAC, (b) Plaintiffs' TAC shall be filed on or before October 5, 2021,  
20 (c) Defendants' response to the TAC, including any Motion to Dismiss, shall be filed on or before  
21 November 1, 2021, (d) Plaintiffs' Opposing papers shall be filed on or before November 22,  
22 2021, and (e) Defendants' Reply Brief shall be filed on or before December 14, 2021.

23 NOW, THEREFORE, based on the above stipulation pursuant to Civil Local Rule 7-12,  
24 the Parties respectfully ask the Court to enter the attached proposed order, which provides:

25 (1) The Case Management Conference currently set for July 28, 2021 at 2:00 p.m.  
26 before this Court shall be continued;

27 (2) Plaintiffs shall file their Third Amended Complaint on or before October 5,  
28 2021;

(3) Defendants shall file their response to the Third Amended Complaint,  
including any Motion to Dismiss, on or before November 1, 2021;

(4) Plaintiffs shall file any Opposition papers on or before November 22, 2021;  
and

(5) Defendants shall file any Reply papers on or before December 14, 2021.

DATED: July 21, 2021

Respectfully submitted,

BROWNE GEORGE ROSS  
O'BRIEN ANNAGUEY & ELLIS LLP



By: \_\_\_\_\_

Debi Ramos

Attorneys for Plaintiffs

DATED: July 21, 2021

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Brian M. Willen

Brian M. Willen

Attorneys for Defendants Google LLC and YouTube, LLC

**ATTORNEY ATTESTATION**

I, Debi Ramos, am the ECF user whose ID and password are being used to file this  
document. I hereby attest that concurrence in the filing of this document has been obtained from  
each signatory pursuant to Northern District Cal.Civil Local Rule 5-1(i)(3).



Debi Ramos

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

Kimberly Carleste Newman, Lisa Cabrera,  
Catherine Jones, Denotra Nicole Lewis,  
Andrew Hepkins, Harvey Stubbs, Khalif  
Muhammad, Keu Reyes and Osiris Ley,

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and Does 1 through 100, inclusive,

Defendants.

Case No. 5:20-cv-04011-LHK

~~[PROPOSED]~~ SCHEDULING ORDER

(Filed Concurrently with the Joint Amended  
Case Management Report)

Judge: Hon. Lucy H. Koh

Trial Date: None Set

1 Having considered the Joint Amended Case Management Report and the Parties' requested  
2 schedule for Plaintiffs to file the further amended Complaint, and their requested briefing schedule  
3 for Defendants' Motion to Dismiss, all papers on file and good cause appearing therefore,

4 **IT IS HEREBY ORDERED:**

5 (1) The Case Management Conference currently set for July 28, 2021 at 2:00 p.m. before  
6 this Court shall be continued to November 10, 2021 at 2:00 p.m;

7 (2) Plaintiffs shall file their Third Amended Complaint on or before October 5, 2021;

8 (3) Defendants shall file their response to the Third Amended Complaint, including any  
9 Motion to Dismiss, on or before November 1, 2021;

10 (4) Plaintiffs shall file any Opposition papers on or before November 22, 2021; and

11 (5) Defendants shall file any Reply papers on or before December 14, 2021.

12  
13 **IT IS SO ORDERED.**

14  
15 Dated: July 22, 2021



\_\_\_\_\_  
Honorable Lucy H. Koh  
United States District Court Judge